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REMARKS

The last office action has been carefully considered.

Claims 1-6 are pending in the present application. Claim 5 has been allowed claims 3, 4 and 6 are allowable subject to being rewritten in independent form with the limitations of the base claim and all intervening claims being incorporated therein.

In the last office action the Examiner rejected claims 1 and 2 under 35 U.S.C. §102 as being anticipated by Inada et al. Applicant respectfully traverses this rejection for the following reasons.

Independent claims 1 and 2 have been amended herein Support for the amendatory language can be found in page 6, line 23 –page 7, line 3 and page 212, lines 3-9 of the present application. Amended Independent claim 1 of the present application now recites in pertinent part:

“An evaluating unit for evaluating, prior to a start of a provision of a broadband communication service, a transmission characteristic of said subscriber line based on an influence deriving from the transmission characteristic of the subscriber line appearing by a reception result of a signal transmitted from said local switch through said subscriber line...”.

In the apparatus of Inada et al. the supervisory control unit 8 is not the same as the evaluating unit of the claimed invention.

The report from the subscriber terminated side control channel control section 6 of Inada et al. is a message within the subscriber terminated side 1 specifying the timing to judge the

status of the subscriber and specifying the subscriber subject to the judgment. The report is not a signal transmitted from the exchange through the subscriber line in the first place.

Moreover, the information sent from the subscriber supervisory control section 8 in response to the report is not at all equivalent with the result of the evaluation concerning the transmission characteristic of the subscriber line. This is because this information is a piece of information decided solely on the fact of whether or not the subscriber's status is in a calling status, which means it is also a piece of information showing the status of the subscriber specified in the report.

In contrast, the evaluation unit in amended independent claim 1 utilizes the fact that the signal sent from the exchange is subject to influence of the transmission characteristic of the subscriber line during the course of its transmission via the subscriber line. By doing so, it "evaluates the transmission characteristic of the subscriber line" connecting the exchange and subscriber "based on the reception receipt of the signal". A feature that is not taught or suggested by Inada et al.

Accordingly it is respectfully submitted that amended claim 1 and amended independent claim 2, which recites a similar feature and is believed to be allowable for the arguments advanced with respect to claim 1, are not anticipated or suggested by Inada et al. it is therefore respectfully requested that these claims be passed to issue. .

As claims 3, 4 and 6 have been considered allowable and based on their dependency on claims 1 and 2. it is respectfully submitted that these claims be passed to issue.

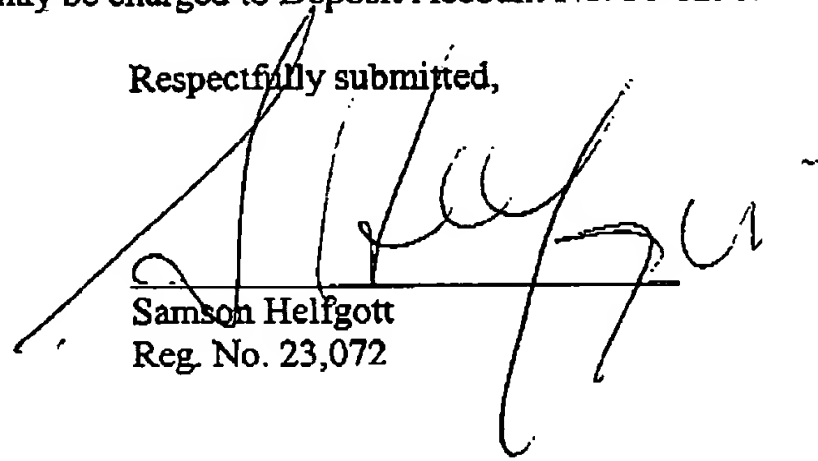
In view of the amendments to claims 1 and 2, the remarks herein and the Examiner's indication of allowable subject matter in claims 3-6 it is respectfully requested that the claims remaining in the present application be passed to issue.

Allowance of the claims remaining in the present application is earnestly solicited.

However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Helfgott', is written over a horizontal line.

Samson Helfgott
Reg. No. 23,072

CUSTOMER NUMBER 026304
Telephone: (212) 940-8800
Fax: (212) 940-8986 or 8987
Docket No.: FUJX 19.040 (100794-11755)
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